

III. REMARKS

Claims 1-28 are pending in this application. By this amendment, claims 1, 9, 17, and 23 have been amended. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 5, 12, 20, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants appreciate the indication of allowable subject matter.

In the Office Action, claims 1-4, 6-11, 13-19, 21-25, and 27-28 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Hurt et al., U.S. Patent Publication No. 2002/0174040A1, in view of Gupta et al., U.S. Patent No. 5,493,107, further in view of Yamaguchi et al., U.S. Patent No. 4,817,185, and further in view of Cato et al., U.S. Patent No. 4,758,058, hereinafter referred to as "Hurt," "Gupta," "Yamaguchi," and "Cato," respectively.

With respect to claim 1, Applicants assert that the combination of cited references fails to teach or suggest each and every feature of the claimed invention, including, providing a price verification device having a barcode scanner and an Optical Character Recognition (OCR) reader. (See claim 1, and as similarly recited in claims 9, 17, and 23.) The Office admits that "...Hurt is silent about the use of a bar code reader for reading the bar code; an OCR reader for reading the human-readable list price." Office Action, p. 4. However, in support of its rejection, the Office asserts that Gupta, Yamaguchi, and Cato show "...the conventionality of the method

of using the product label comprising a UPC code and a printed price, an OCR reader for reading the OCR price tag; and bar code reader for reading UPC price tag.” *Id.*

Interpreting Gupta, Yamaguchi, and Cato only for the purposes of this response, Applicants submit that each reference fails to disclose, *inter alia*, a price verification device having a barcode scanner and an Optical Character Recognition (OCR) reader. The above-cited references disclose, in isolation, either scanning a barcode, or reading a label using an OCR reader. However, each of the cited references fail to disclose or suggest both claimed barcode and OCR features. In contrast, the claimed invention recites, *inter alia*, the step of “providing a price verification device having a barcode scanner and an Optical Character (OCR) reader.” *See* claim 1. None of the cited references teach or suggest this claimed feature. Accordingly, Applicants respectfully request that the Office withdraw its rejection.

With further respect to claim 1, Applicants assert that Hurt fails to teach or suggest each and every feature of the claimed invention, including, “comparing the stored price to a register-based price for the item as determined by a register to verify an accuracy of the stored price.” (*See* claim 1, and as similarly recited in claims 9, 17, and 23.) In support of its rejection, the Office asserts that Hurt discloses a “first processor 20 is provided for processing the data contained in the first database 12 and the data contained in the second database 14, to compare the two sets of data, to provide a comparison report 26...” (*See* Office Action, p. 4) The Office further asserts that Hurt discloses “a system for capturing the shelf label from a product identification code (bar code) and thus comparing its listing price against the corresponding price stored in the cash-register database for discrepancies.” *Id.*

Interpreting Hurt only for the purposes of this response, Applicants submit that Hurt merely discloses a first and second database, wherein “...the first database 12 comprises a

database containing a listing [of] information about all of the various items (SKUs) that are usually contained within the inventory of the store in which the data reconciliation system 10 is being used." See ¶ 0036. The second database "...contains a similar database of items sold by the store or store chain." ¶ 0037. As shown in FIG. 1, First Database 12 delivers output to a cash register transaction system of a particular store, while Second Database 14 corresponds to Shelf Labels 18. During operation, "...differences between the two databases 12, 14 will cause discrepancies to occur between the information contained on a shelf label (that usually includes item description, UPC number, and other information about the product to which it pertains) and the information contained in the cash register transaction system 16." However, no comparison is made between the price stored in the portable verification device and the register. The comparison in Hurt is between one database containing inventory information for a series of stores, and another database containing items sold by a particular store or store chain. ¶ 0036 - ¶ 0037. Hurt never teaches that the pricing and detail information for the items in the second database is information retrieved in any way from the actual shelf label. Therefore, the comparison is made independently of any customer-specific items that have been scanned, read, and stored within the portable price verification device.

In contrast, the claimed invention recites, *inter alia*, comparing the stored price (as collected by scanning a barcode and reading a price for the item) to a register-based price. See claim 1. The stored price is contained within the portable price verification device. *Id.* Accordingly, once a customer/user scans an item into the device, the stored price is compared to a register-based price for the item as determined by the register. Hurt fails to disclose this claimed feature. As a result, Applicants respectfully request withdrawal of the rejection.

Still furthermore, with respect to claim 1, Applicants assert that Hurt fails to teach or suggest each and every feature of the claimed invention, including, a *portable* price verification device. The claimed invention recites the step of providing a portable price verification device having a barcode scanner and an Optical Character Recognition reader. Hurt fails to disclose this claimed feature. While the device as disclosed by Gupta may be portable, Applicants submit that there is no motivation or suggestion to combine the teachings from Hurt, with the portability disclosed by Gupta. Hurt fails to teach or suggest that the pricing and detail information for the items in the second database is information retrieved in any way from the actual shelf label. The comparison is made independently of any shelf items that have been scanned and read. The scanning device, as disclosed by Hurt, contributes nothing to the database comparison taught by the invention. As a result, Applicants submit that there is no motivation or suggestion to combine the cited references and respectfully request the withdrawal of the rejection.

With respect to claim 2, Applicants assert that the cited references fail to disclose each and every element of the claimed invention, including, "inputting a quantity for the item using the key pad." (See claim 2, as similarly recited in claims 10, 18, and 24.) In support of its rejection, the Office asserts that "...the step of inputting the quantity, computing the total price, and storing are considered the typical functions of a POS system that would have been embraced by the system as taught by Hurt." Office Action, p. 5. However, Applicants submit that Hurt fails to disclose or suggest, *inter alia*, the step of inputting a quantity for the item using a key pad on the price verification device. In fact, neither Hurt, nor any of the cited references even mention a key pad. As a result, Applicants submit that inputting a quantity for the item using a key pad is not a typical function of a POS system as taught by Hurt. Accordingly, Applicants respectfully request that the Office withdraw the rejection.

Regarding claim 15, the Office takes Official Notice "...that hybrid barcode/OCR reader[s] are known and are commercially available in retail environments, storage systems, etc." (See Office Action, p. 6). Applicants respectfully traverse the rejection. Applicants respectfully request that the Office support the finding with references that show these features.

In the Office Action, independent claims 9, 17 and 23 are rejected under the same rationale as claim 1. As a result, Applicants herein incorporate the arguments submitted above with respect to claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection.

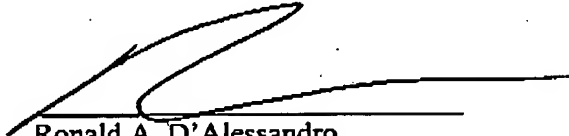
With respect to dependent claims 2-8, 10-16, 18-22, and 24-28 Applicants herein incorporate the arguments presented above with respect to the independent claims from which the claims depend. The dependent claims are believed to be allowable based on the above arguments, as well as for their own additional features.

IV. CONCLUSION

In light of the above remarks, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

Date: August 4, 2005



Ronald A. D'Alessandro
Reg. No.: 42,456

(DLP)

Hoffman, Warnick & D'Alessandro LLC
75 State Street, 14th Floor
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)